

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

EMMANUEL WINTERS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:20-cv-00728-JRS-MPB
	)	
ANDONSON, et al.	)	
	)	
Defendants.	)	

**ORDER DENYING MOTIONS FOR SUMMARY JUDGMENT WITHOUT PREJUDICE  
AND DIRECTING FURTHER PROCEEDINGS**

Plaintiff Emmanuel Winters, an Indiana Department of Correction inmate, filed this 42 U.S.C. § 1983 action on March 6, 2020. Dkt. 1. Mr. Winters' Eighth Amendment excessive force claims are proceeding against the defendants based on allegations that Mr. Winters was sprayed with a chemical agent during a cell extraction at New Castle Correctional Facility on August 21, 2019. *See* dkt. 6. The defendants seek resolution of the claims against them in their motion for summary judgment. Dkt. 39.

The Court understands that Mr. Winters is seeking production of all or part of two IDOC restricted policies that pertain to use of force and use of chemical agents, and that the defendants failed to file a motion for a protective order and/or a motion for *in camera* inspection of those policies. Dkt. 50. Unredacted copies of these policies have now been filed *ex parte* with the Court. Dkt. 51. Though Mr. Winters responded to the defendants' motion for summary judgment, and then sought to file a cross-motion for summary judgment, he believes that information in the policies may be valuable to his case. Dkt. 68.

Accordingly, to allow the plaintiff ability to fully respond to summary judgment or file an appropriate cross-motion, and in effort to resolve any remaining discovery dispute between the parties, the Court makes the following rulings:

The defendants' motion for summary judgment, dkt. [39] is **denied without prejudice** pursuant to Federal Rule of Civil Procedure 56(d). **The defendants may refile their motion** once the remaining discovery issue is resolved, and the Court resets a new dispositive motion deadline by separate Order.

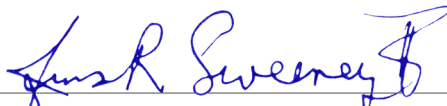
The plaintiff's cross-motion for summary judgment, dkt. [62], is **denied without prejudice**. Should Mr. Winters' wish to file a dispositive motion in this action, **he may refile** such motion pursuant to the newly set dispositive motion deadline.

Mr. Winters' motion to attach evidence exhibit, dkt. [35], is **denied as moot**. Mr. Winters **will have the opportunity to designate evidence** that he wishes the Court to consider when he refiles a dispositive motion, or in his response to the defendants' refiled dispositive motion.

The defendant's motion to strike plaintiff's motion for summary judgment, dkt. [67], is **denied as moot**.

**IT IS SO ORDERED.**

Date: 3/25/2022

  
\_\_\_\_\_  
JAMES R. SWEENEY II, JUDGE  
United States District Court  
Southern District of Indiana

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